

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-53846

CITY OF DETROIT, MICHIGAN,

Chapter 9

Debtor.

Judge Thomas J. Tucker

**CASE MANAGEMENT ORDER APPLICABLE TO
ALL PENDING PREFERENCE ACTIONS**

In late November and early December 2015, the City of Detroit, Michigan (referred to in this Order below as the “City” or the “Plaintiff”) filed a total of 185 adversary proceedings, each of which sought avoidance and recovery of alleged preferential transfers (the “Preference Actions”). In a status report filed on November 29, 2016 (Docket # 11683), the City reported that all but 37 of those Preference Actions have been resolved.¹

With respect to the Preference Actions still pending, the Court now enters this case management order.

IT IS ORDERED that:

1. This Order applies to each Preference Action that is still pending on the date of entry of this Order, and a copy of this Order will be filed in each such Preference Action.
2. The parties in each Preference Action must comply with Fed. R. Bankr. P. 7026, incorporating Fed. R. Civ. P. 26(f) to the following extent: the parties must (1) confer and discuss the required subjects, no later than February 28, 2017; and (2) file with the Court, no later than March 7, 2017, a written report regarding all the subjects, ***other than those addressed by this Order below***, that are listed in the Rule 26(f) report form available on the Court's web site (<http://www.mieb.uscourts.gov/>) under “All Local Forms” (the form is entitled “Report of Parties Rule 26(f) Conference.” See <http://www.mieb.uscourts.gov/forms/report-parties-rule-26f-conference>). Parties also may discuss in their Rule 26(f) report whether and to what extent the Court should conduct any joint hearings or joint trials on any issue(s) common to one or more of the still-pending Preference Actions. See *generally* Fed. R. Civ. P. 42(a).
3. Given the number of remaining Preference Actions, and in the interest of efficient administration of its docket, the Court has determined that the following dates and deadlines will

¹ From the Court’s records, however, it appears that 52 of the Preference Actions still remain open and pending, as of December 21, 2016. These include 16 Preference Actions in which the City has filed a notice of pending settlement.

apply in each of the Preference Actions:

(a) The parties must exchange initial disclosures as required by Fed. R. Civ. P. 26(a)(1) no later than March 21, 2017, except that such initial disclosures may be waived if all parties in a Preference Action so stipulate. In any Preference Action in which such a stipulation is filed, the initial disclosures will be deemed waived, without further order of the Court.

(b) Plaintiff and each Defendant is granted leave through, and the deadlines are, May 5, 2017 to join additional parties and to amend the pleadings.

(c) All discovery, including any depositions of experts, must be commenced in time to be completed no later than August 9, 2017.

(d) Reports from any retained experts under Fed. R. Civ. P. 26(a)(2) are due to be served by Plaintiff no later than June 5, 2017, and by Defendant(s) no later than June 26, 2017, with any rebuttal expert reports due to be served by the parties no later than July 10, 2017.

(e) All potentially dispositive motions must be filed no later than September 6, 2017.

(f) If and to the extent any Preference Action involves the discovery of electronically stored information, under L.B.R. 7026-4 (E.D. Mich.), the Model Order Relating to the Discovery of Electronically Stored Information approved by the United States District Court for this district will apply. (A copy of this Model Order is available on this Court's website, under "Local Rules." *See*

<http://www.mieb.uscourts.gov/sites/default/files/ModelESIDiscoveryOrderAndRule26fChecklist.pdf>).

(g) If any party has filed a jury demand, the following provisions will apply:

(1) Any motion to strike a jury demand must be filed no later than September 6, 2017.

(2) If all the parties in a Preference Action wish to consent to the Bankruptcy Court conducting any jury trial under 28 U.S.C. §§ 157(e), they must file a stipulation expressing such consent no later than September 6, 2017.

4. If and to the extent any party wishes to ask the Court to reconsider any of the provisions in paragraph 3 above, that party must make the request, and explain the reasons for it, in the Rule 26(f) report. The Court discourages such requests for reconsideration.

5. The Order entitled "Order Approving Procedures for Adversary Proceedings to Avoid and

Recovery Preferential Transfers” filed on November 24, 2015 (Docket # 10280 in Case No. 13-53846, the “Procedures Order”), is modified to the extent of the provisions of this Order, including the following provisions:

(a) Paragraph G of the Procedures Order is modified by the following: The parties’ ability to conduct formal discovery in each Preference Action will no longer be stayed, effective February 28, 2017. Beginning on that date, all parties may conduct formal discovery.

(b) Paragraph C of the Procedures Order is modified by the following: In any Preference Action in which a motion to dismiss (or a motion for judgment on the pleadings) has been filed which is based on Fed. R. Civ. P. 12(b)(6), the City must file a response to such motion no later than March 14, 2017, and thereafter the moving party must file any reply brief in support of the motion no later than March 21, 2017. After reviewing such motions and related papers, the Court will decide whether a hearing is necessary, and if so, will issue a notice of hearing. Otherwise, the Court will issue a written decision on such motions without holding a hearing.

6. The Court does not intend to hold a separate initial scheduling conference in any of the Preference Actions. Soon after the Rule 26(f) reports required by paragraph 2 above have been filed, the Court will issue a scheduling order in each Preference Action. Among other things, each scheduling order will set a date and time for a final pretrial conference and trial. The Court intends to schedule final pretrial conferences to occur at 10:00 a.m. on the Mondays during the months of November 2017 and/or December 2017, and to schedule trial dates at 9:00 a.m. on the Tuesdays during the months of December 2017 and/or January 2018.

7. With respect to any Preference Action that has not yet been resolved, by settlement or by otherwise, as of September 8, 2017, the Court intends to issue a mediation order referring the Preference Action to mediation under L.B.R. 7016-2 (E.D. Mich.). The Court intends to appoint mediators only from the Court’s list of volunteer mediators, available on the Court’s website. (*See* <http://www.mieb.uscourts.gov/sites/default/files/mediationinfo/mediators.pdf>). If the parties in any Preference Action wish to ask the Court, jointly or separately, to appoint a particular mediator from the Court’s list of mediators, they must file such a request in writing no later than September 1, 2017.

Signed on December 21, 2016

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge